

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES E. WALKER, #R-02343,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 19-CV-618-SMY
)	
NICK LAMB, et al,)	
)	
Defendants.)	
)	

ORDER

This matter comes before the Court on Defendant's Suggestion of Death (Doc. 158) regarding Defendant Maury Goble. On February 22, 2024, this Court ordered the State to disclose the name and address of Defendant Maury Goble's mother as a potential special representative (Doc. 189). The State complied on March 20, 2024, identifying Virginia Ann Stone, a/k/a Ginger Stone, of 506 E. Main Street, Robinson, Illinois 62454 (Doc. 193). Plaintiff then filed a Motion to Substitute Virginia Ann Stone as successor for Defendant Maury Goble (Doc. 194).

Federal courts borrow from state law as necessary to provide a complete remedy in § 1983 actions. 42 U.S.C. § 1983. Accordingly, when a party dies, the Court must look to state law to determine who the proper party is for purposes of substitution under *F.R.C.P.* 25. *See Anderson v. Romero*, 42 F.3d 1121, 1123 (7th Cir. 1994). Under Illinois law, Section 2-1008(b) of the Code of Civil Procedure addresses what happens when a party to an action dies after suit has been filed. 735 ILCS 5/2-1008(b); *see Relf v. Shatayeva*, 2013 IL 114925, ¶¶37-38 (2013). Specifically, if no estate has been opened, upon motion of a person bringing an action and after notice to the party's heirs or legatees as the court directs, the court may appoint a special representative for the deceased party for purposes of defending the action. *See* 735 ILCS 5/2-1008; *see Steward v. Special Adm'r*

of *Estate of Mesrobian*, 559 F. App'x 543, 549 (7th Cir. 2014). If a special representative is appointed, the recovery against the special representative shall be limited to the proceeds of any liability insurance protecting the estate and shall not bar the estate from enforcing any claims that might have been available to it as counterclaims. *See Tucker v. Mitchell-Lawshea*, 2019 WL 1057384, at **5-6 (N.D. Ill. Mar. 6, 2019) (the district court had the authority to appoint a special representative under 735 ILCS 5/2-1008(b)(2) as “proper party” where (1) defendant died after suit was filed; (2) no probate estate had been opened or is expected to be opened; (3) defendant was insured; and, (4) plaintiff represents or acknowledges that recovery will be limited to the proceeds of that liability insurance).

Here, Plaintiff intends to proceed against Defendant Goble and has filed a motion to substitute a successor, which the Court construes as a Motion to Appoint a Special Representative. The Court is aware that Defendant Maury Goble is deceased, that Virginia Ann Stone has been identified as the decedent's mother and possible special representative, that no petition has been filed in probate for decedent defendant's estate, and that Plaintiff's claims against decedent defendant are not time limited.

Accordingly, Plaintiff's Motion to Substitute Virginia Ann Stone as successor for Defendant Maury Goble (Doc. 194) is **GRANTED**. Victoria Ann Stone is hereby appointed as Special Representative under 735 ILCS 5/2-1008 for the sole purpose of defending the action herein. Victoria Ann Stone, as Special Representative, shall be substituted as proper party defendant, and shall defend the action in the name and place of Defendant Maury Goble, with full powers to compromise and settle the respective claims. *See* Fed. R. Civ. Pro. 25, 735 ILCS 5/2-1008(b). Any recovery against the Special Representative shall be limited to the proceeds of any liability insurance affording coverage for Plaintiff's claims against the decedent defendant.

The Clerk of Court is **DIRECTED** to substitute Victoria Ann Stone, Special Representative of the Estate of Maury Goble for Defendant Maury Goble as the party defendant.

The Court **DIRECTS** Plaintiff, with the assistance of his standby counsel, Attorney Jeffrey Ryan Zohn, to serve notice upon Victoria Ann Stone, at 506 E. Main Street, Robinson Illinois 62454, of the Motion to Appoint her as Special Representative for deceased Defendant Maury Goble and a copy of this Order **within 30 days**. Service of notice will not be required if the Attorney General's office indicates and files a waiver of notice on behalf of Victoria Ann Stone within that thirty 30 days.

IT IS SO ORDERED.

DATED: June 24, 2024



STACI M. YANDLE
United States District Judge